

## **IC 34-55-5**

### **Chapter 5. Personal Property Taken in Execution of Judgment**

#### **IC 34-55-5-1**

##### **Return of property to execution defendant**

Sec. 1. (a) Any personal property taken in execution may be returned to the execution defendant by the sheriff, upon the delivery by the defendant to the sheriff of a written undertaking described in subsection (b).

(b) The written undertaking must be:

(1) payable to the execution plaintiff, with sufficient surety to be approved by the sheriff; and

(2) to the effect that the property shall be delivered to the sheriff at a time and place named in the undertaking, to be sold:

(A) according to law; or

(B) for the payment to the sheriff of:

(i) the appraised value of the property; or

(ii) if the property has not been appraised, the fair value of the property.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-5-2**

##### **Appraisal of property**

Sec. 2. (a) Before the sheriff delivers any part of the property to the defendant, the sheriff shall cause the property to be appraised in the manner prescribed by law when an appraisal of the property is required.

(b) The defendant may sell or dispose of the property, paying the officer the full appraised value of the property.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-5-3**

##### **Nondelivery of property; duty of sheriff to levy and sell**

Sec. 3. In case of the nondelivery of the property according to the undertaking, the sheriff shall levy upon and sell the property, or any other property of the defendant, as soon as practicable, at any time before the return day of the execution.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-5-4**

##### **Forfeiture of undertaking; endorsement**

Sec. 4. Upon the forfeiture of the written undertaking, the officer shall immediately return it endorsed "forfeited" to the clerk's office for the use of the plaintiff.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-5-5**

##### **Actions on undertakings; damages**

Sec. 5. The written undertaking is valid in law. An action may be brought on the written undertaking, whenever the condition of the

written undertaking is broken, and on recovery. The value of the property so taken, with damages not exceeding ten percent (10%) on the value, shall be assessed in favor of the plaintiff. However, the recovery may not exceed the amount due on the execution, and ten percent (10%) on the principal.

*As added by P.L.1-1998, SEC.51.*

#### **IC 34-55-5-6**

##### **Execution without stay**

Sec. 6. On judgment obtained on the written undertaking, execution shall issue immediately, without stay, returnable in thirty (30) days, and the sheriff shall not return to the execution defendant any property levied on, except upon payment of the judgment.

*As added by P.L.1-1998, SEC.51.*